

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

KEVIN J. KNOBBE,	)	
	)	
Plaintiff,	)	8:05cv489
	)	
vs.	)	MEMORANDUM AND ORDER
	)	
BANK OF AMERICA,	)	
	)	
Defendant.	)	

This matter is before the court on (1) filing no. 14, the Motion to Dismiss filed by the defendant, Bank of America; (2) filing nos. 19 and 22, the Motions for Extension of Time to obtain legal representation filed by the plaintiff, Kevin J. Knobbe; (3) filing no. 21, the defendant's Objection to the plaintiff's Motions for Extension of Time; and (4) filing no. 20, the plaintiff's Motion for Leave to fax documents to the court. In his complaint, the plaintiff alleges violations of consumer protection laws by the defendant, acting through the attorney who represented the defendant in a collection action against the plaintiff in 2004. In its motion to dismiss, the defendant contends that the complaint purports to state a claim under the Fair Debt Collections Practices Act but fails to state a claim on which relief may be granted under that Act; that the plaintiff's claims constitute, in reality, a disguised appeal of decisions in state court cases, and so his claims are barred by the "Rooker-Feldman doctrine" in this court; and that the plaintiff has not sufficiently alleged any violations of the U.S. Constitution.

The court has previously granted the plaintiff's request for an extension of 120 days in which to retain counsel. Also, in response to the defendant's first Motion to Dismiss, the court explained to the plaintiff how to serve the defendant with process. The plaintiff brought this action over 300 days ago, and the time has come for the plaintiff to respond to the defendant's second motion to dismiss the complaint. In the alternative, the plaintiff may voluntarily dismiss this action, without prejudice, or allow the case to be dismissed without prejudice, so that he may refile his complaint when he has obtained an attorney, within the period of the applicable statute of limitations.

THEREFORE, IT IS ORDERED:

1. That filing no. 14, the defendant's Motion to Dismiss, is taken under advisement until after September 15, 2006;

2. That filing nos. 19 and 22, the plaintiff's Motions for Extension of Time, are granted in part and denied in part; the plaintiff shall have until September 15, 2006 to respond to the defendant's Motion to Dismiss, or, in the absence of a timely response by the plaintiff, this case will be dismissed, without prejudice, for failure to prosecute;

3. That filing no. 20, the plaintiff's Motion for Leave to fax documents to the court is granted in part; the plaintiff may fax his response to the defendant's Motion to Dismiss, or he may fax a Motion for Voluntary Dismissal, to Magistrate Judge F. A. Gossett's chambers (fax number 402-661-7338) by September 15, 2006; and Magistrate Judge Gossett will arrange for filing of the document(s); subsequently, however, any future fax, if any, must be authorized **in advance** by the court, or any such future fax will not be accepted and will be returned.

August 23, 2006.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge